

## **REMARKS**

Claims 1-45 are pending in the present application. Claims 1, 8, 39 and 40 have been amended. No new matter has been added. Applicants respectfully request reconsideration of the claims in view of the following remarks.

Claims 1, 3-6 and 39-45 have been rejected under 35 U.S.C. § 102(e) as assertedly being anticipated by U.S. Patent No. 7,039,097 to Terao (hereinafter “Terao”). Claim 7 has been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Terao. Claim 19 has been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Terao in view of U.S. Patent No. 6,795,422 to Ohsuge (hereinafter “Ohsuge”). Claims 29-32 and 38 have been rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Ohsuge in view of U.S. Patent No. 6,370,183 to Newson, *et al.* (hereinafter “Newson”). Applicants respectfully traverse these rejections. Claims 2, 8-18, 20-28, and 33-37 have been indicated as allowable if rewritten in independent form including all limitations of the base claims and any intervening claim.

Claim 1 has been amended to incorporate certain elements of dependent claim 8, which was indicated as allowable if rewritten. Applicants respectfully submit that the processing steps added to claim 1 are not taught in the cited references and, therefore, claim 1, as amended, is in condition for allowance.

Claim 29 requires, in addition to other elements, “checking drop timers for the demodulating finger assignments.” The Office Action cites to the Ohsuge reference as teaching this feature. Office Action at 5. Applicants respectfully submit that the Ohsuge reference does not teach or suggest timers or drop timers. Accordingly, claim 29 is allowable over the cited references.

Claim 39 has been amended to include elements of claims 2 and 40. Claim 2, which depends from claim 1, was indicated as allowable if rewritten in independent form including the elements of its base claim. Applicants have not rewritten the claim to include the elements of claim 1, but have instead included the elements from claim 2 into independent claim 39. Applicants respectfully submit that claim 39, as amended, is allowable over the cited references.

Claims 2-28, 30-38, and 40-45 depend from claims 1, 29 and 39, respectively, and add further limitations. It is respectfully submitted that these dependent claims are allowable by reason of depending from an allowable claim as well as for adding new limitations.

The Examiner has rejected claims 1-45 on the ground of nonstatutory double patenting over claims 1-39 of U.S. Patent No. 6,725,016 to Jeong *et al.* (Hereinafter “Jeong”). Applicants respectfully traverse this rejection. Claim 1 requires “placing paths with a delay offset greater than a specified threshold from the delay offset of paths in a first set into a group.” Jeong does not disclose using a “delay offset greater than a specified threshold from the delay offsets of paths in a first set.” Instead, Jeong uses SNR to place paths into groups. See, Jeong Fig. 4. Claim 29 requires “checking drop timers for the demodulating finger assignments.” Applicants respectfully submit that this feature is not disclosed or claimed in Jeong. Applicants believe that the Examiner is equating the assigned state (402), potential state (404) and temporary state (406) of Jeong to the claimed assigned set, potential set, and temporary set in claim 39; however, Jeong is missing any disclosure of the “code set” required in claim 39. See, Jeong Fig. 4. Accordingly, the elements of the pending claims are not disclosed or claimed in the Jeong patent and, therefore, the doubled patenting rejection should be withdrawn.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Ron Needings, Applicant's attorney, at 972-917-5299 so that such issues may be resolved as expeditiously as possible. No fee is believed due in connection with this filing. However, should one be deemed due, the Commissioner is hereby authorized to charge, or credit any overpayment, Deposit Account No. 20-0668.

Respectfully submitted,

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Date

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